

# **Gunnedah Shire Council Swimming Pool Barrier Inspection Program**

## **1.0 Introduction**

The New South Wales (NSW) Division of Local Government has recognised swimming pool safety as an important issue and in doing so has made significant amendments to the Swimming Pools Act 1992 (the Act). These amendments include Inspection fees and penalties, pool registration and certification and a requirement for local councils to develop an Inspection program. The aim of these changes is to reduce drowning and near drowning instances of children under the age of five.

In response to the amendments to the Act, a draft Swimming Pool Barrier Inspection Program (Program) has been developed and is proposed to be placed on public exhibition. The Program that has been developed will be implemented in three phases based on legislative requirements, resourcing and perceived risk to the community. The purpose of the Gunnedah Shire Council Swimming Pool Barrier Inspection Program (Program) is to develop, in consultation with the community, an affordable and effective pool barrier safety program in response to recent amendments to the Swimming Pool Act 1992 (Act). The Program will also have an emphasis on providing relevant, up to date information to residents to assist in improving the safety of all swimming pools within the Local Government Area.

A significant portion of the Program is based around the inspection of premises with pools and to ensure the pool barrier complies with the relevant standard. Once a barrier complies with the standard a Certificate of Compliance-Swimming Pool (Certificate) will be issued to the property owner. This Certificate is valid for three years.

To assist financing the Program and insuring required safety standards are achieved an array of fees and Penalty Notices have been included in the recent amendment to the Act.

### **1.1 Certificate of Compliance-Swimming Pool**

A Certificate is issued by an Authorised Officer of Council (or a Private Certifier) in accordance with the Act. This Certificate is valid for 3 years and certifies that the swimming pool barrier complies with the requirements of the Act, Regulations and Standard at the time of inspection.

A Certificate ceases to be valid if a subsequent Direction is issued under the Act because the pool barrier is later found to be defective and requires rectification works.

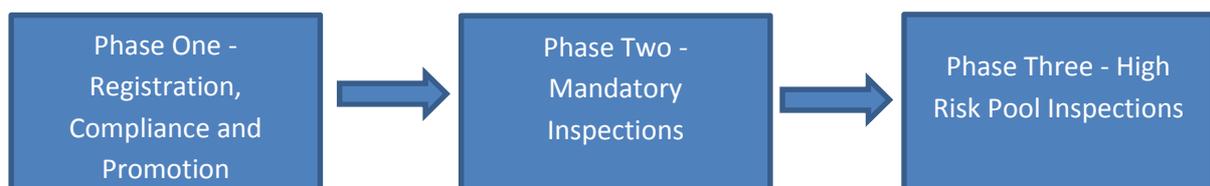
## 2.0 Legislative requirements for pool owners

The changes to the Act require swimming pool owners to.

1. Register their swimming pool before 29 October 2013 on the NSW Department of Local Government Swimming Pool Register;
2. Ensure other development does not impact the effectiveness of their pool barrier;
3. Maintain an effective and compliant pool barrier;
4. After 29 April 2014 owners will need to have a valid Certificate for all premises on which there is tourist and visitor accommodation or more than 2 dwellings; and
5. After 29 April 2014 owners will need to have a valid Certificate to sell or lease their property.

## 3.0 Program Implementation

The Program will be implemented in three phases, based on legislative requirements, resourcing and perceived risk to the community. This staged process will ensure priority tasks are completed while also identifying future resource requirements.



### 3.1 Phase One - Registration, Compliance and Promotion

Phase One of the Program will be carried out between 29 October 2013 and 29 April 2014. In this phase Program activities will focus on:

- Registration of pools on behalf of residents
- Certificates requested by residents
- Investigate complaints reported to Council of alleged defective pool barriers
- Continue to promote community awareness and education in relation to pool safety

### **3.2 Phase Two - Mandatory Inspections**

Phase Two of the Program will start 29 April 2014, and will include mandatory inspections of pool barriers at premises on which there is tourist and visitor accommodation or more than 2 dwellings and properties that are to be sold or leased. These inspections are required to be carried out within ten (10) days of the customer's application and the payment of fees.

It is estimated that this phase will dominate the Program's resourcing due to the prescribed ten (10) day time frame for these inspections and the high number of applications expected to be received after 29 April 2014.

All premises on which there is tourist and visitor accommodation or more than 2 dwellings will require an inspection and renewal of their Certificate every three (3) years.

### **3.3 Phase Three - High Risk Pool Inspections**

Phase Three of the Program will include proactive inspections of high risk private pools across the LGA. This phase will only be operational when mandatory requirements of Phase One and Two are being met. This phase will focus on pool barriers in high risk areas which include:

- Premises identified as having an unauthorised pool.
- Pools that have not been registered.

### **3.4 Ongoing Investigation of Complaints**

As well as implementing Phases 1, 2 and 3, Council Officers will continue to respond to and investigate complaints received regarding swimming pools/swimming pool barriers.

### **3.5 Non-compliant barriers**

When an inspection has been undertaken and a swimming pool barrier is found to not comply with relevant legislative requirements the owner will be notified through the issuing of a Notice of Proposed Direction (Notice).

After a period of fifteen (15) days from the date of the Notice, a Direction to Comply (Direction) will be served. The Direction will require the owner to undertake measures to ensure that the swimming pool or premises comply with the requirements of the Act. Reasonable timeframes will be set out in the Direction.

In the event that Council deems a swimming pool to be of high risk and considers the safety of the community may be at risk if measures are not carried out as soon as possible. Council may issue a Direction in the first instance,

After the time period for compliance with the Direction has expired, a reinspection of the swimming pool will be carried out by Council to determine if compliance has been achieved, given the potential safety issues, any significant failures to comply may result in Council issuing a Penalty Notice or seeking legal enforcement of the Direction through an application to the Land and Environment Court.

#### **4.0 Fees**

The Act enables Council to charge inspection fees in relation to the Program. These fees are designed to offset the substantial costs associated with the Program.

#### **4.1 Registration of Pools on Behalf of Residents (\$10 Fee)**

If swimming pool owners are unable to register their pools on the NSW Division of Local Government's online swimming pool register Council can do it on their behalf. This requires the swimming pool owner to attend the Customer Service Counter at Council's Administration Building, complete the required information form and pay a \$10 fee that has been prescribed in the Act.

#### **4.2 Program Inspection Fees**

The fees to be approved under the program are prescribed by the Act.

The fees outlined in Table 1 below relate to Certificates that have been requested by the swimming pool owners as part of Phase 1 of the Program. These fees are payable before any inspections are carried out. In addition, the Certificate will not be released until all required rectification works have been carried out.

<b>Table 1</b>	
<b>Phase One - Registration, Compliance and Promotion</b>	
<b>Type of service</b>	<b>Fee amount</b>
First Inspection	\$150
Subsequent Inspections	No fee

Issue of Certificate	No charge
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The fees outlined in Table 2 below relate to Phase Two and Phase 3 inspection of properties. These properties include:

- Premises on which there is tourist and visitor accommodation or more than 2 dwellings (Phase Two)
- Properties with swimming pools that are to be sold or leased (Phase Two)
- Proactive inspection of high risk pool barriers (Phase Three)

Inspection fees will be paid by the swimming pool owner before any inspections are carried out.

Phase Three inspection fees will be charged to the swimming pool owner once the final inspection has been carried out. Certificates will not be released until all inspection fees have been paid and all rectification works have been carried out.

<b>Table 2</b>	
<b>Phase Two - Mandatory Inspections and Phase Three - High Risk Pool Inspections</b>	
<b>Type of service</b>	<b>Fee amount</b>
First Inspection	\$150
Subsequent Inspections	\$100
Issue of Certificate	No charge

## **5.0 Penalty Notices**

There are a range of Penalty Notices that can be issued by Council for non-compliances with the requirements of the Act. Any income collected through this process will be directed towards the funding of the Program.

### **5.1 Failure to Register Swimming Pool**

Failing to register a swimming pool is predicted to be a common breach of the Act within our community. After 29 October 2013, Council will be able to issue a \$220 Penalty Notice to property owners who fail to register their swimming pool.

If Council becomes aware of a property owner who has failed to register their swimming pool or spa, the owner will be given 7 days written notice to register. Property owners who fail to register their swimming pool after the 7 days may be issued with a \$220 Penalty Notice. Council will then register the swimming pool or spa on their behalf.

## 5.2 Other

Table 3 outlines the range of Penalty Notices that can be issued by Council for non-compliances with the requirements of the Act. Such penalties will not be issued as an initial response to minor offences and are only considered appropriate to issue for significant non-compliances and to ensure required safety upgrades are carried out in a timely manner.

<b>Table 3 Penalty Notices</b>		
<b>Offence</b>	<b>Penalty</b>	<b>Maximum Court Penalty</b>
Section 7 (1): Failure to comply with general requirements for outdoor pools associated with dwelling	\$550	50 penalty units = \$5,500
Section 12: Failure to comply with general requirements for outdoor pools associated with movable dwelling and tourist and visitor accommodation	\$550	50 penalty units = \$5,500
Section 14: Failure to comply with general requirements for indoor pools	\$550	50 penalty units = \$5,500
Section 15 (1): Failure to maintain child resistant barrier	\$550	50 penalty units = \$5,500
Section 16: Failure of Occupier to keep access to pool securely closed	\$550	50 penalty units = \$5,500
Section 17 (1): Failure to display or maintain prescribed warning notice near pool	\$110	5 penalty units = \$550

### Document History/Review

<b>Version</b>	<b>Name of and date of review</b>	<b>Quality check complete</b>	<b>Comments</b>
Version 1	B O'Mullane 28 Oct 2013	N/A	First version